

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-second Session
March 15, 2023**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:05 p.m. on Wednesday, March 15, 2023, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Dallas Harris, Vice Chair
Senator James Ohrenschall
Senator Marilyn Dondero Loop
Senator Rochelle T. Nguyen
Senator Ira Hansen
Senator Lisa Krasner
Senator Jeff Stone

GUEST LEGISLATORS PRESENT:

Senator Pat Spearman, Senatorial District No. 1
Assemblywoman Clara Thomas, Assembly District No. 17

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Jan Brase, Committee Secretary

OTHERS PRESENT:

Andy LePeilbet, Chair, United Veterans Legislative Council
Jonathan Norman, Nevada Coalition of Legal Service Providers
Sophia A. Romero
Tony Grady, United Veterans Legislative Council
Jamie Cogburn, Nevada Justice Association

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Donna Jean Coquilla
Garrett D. Gordon, CAI Nevada
Jeffrey Lofy
Josh Hicks, Nevada Home Builders Association; Southern Nevada Home Builders
Association; Builders Association of Northern Nevada
Donna Zanetti, CAI Nevada
Alex Echo
Tonya Bates, CAI Nevada
Ronda Theisen
Lorrie Olson, Nevada Association of Community Managers
Neil Strocchio
John Leach
Gregory Kerr, CAI Nevada
Eric Theros, Nevada Association of Community Managers
Steven Parker, Community Association Management Executive Officers, Inc.
Lyle McKenzie
Sharath Chandra, Administrator, Real Estate Division, Nevada Department of
Business and Industry
Cyrus Hojjaty
Lori E. Burger, Senior Vice President, Eugene Burger Management Corporation of
Nevada-Reno
Kristopher Yerger
James Strasser
Lisa - Unidentified Testifier
Susan Proffitt, Nevada Republican Club

CHAIR SCHEIBLE:

We will begin the meeting with Senate Bill (S.B.) 175.

SENATE BILL 175: Revises provisions governing common-interest communities.
(BDR 10-7)

SENATOR PAT SPEARMAN (Senatorial District No. 1):

Senate Bill 175 continues my ongoing efforts to ensure our laws governing Nevada's homeowners' associations (HOAs) are transparent, effective and fair and that they help Nevadans retain what is likely the most valuable investment they will ever make. In recent sessions, the Legislature has done a lot of work to revise HOA laws to protect both homeowners and to improve the way HOAs operate. We passed A.B. No. 237 of the 81st Session, A.B. No. 249 of the

81st Session, A.B. No. 301 of the 81st Session, S.B. No. 72 of the 81st Session and S.B. No. 186 of the 81st Session. Senate Bill 175 continues that work by putting in place further protections for our most vulnerable homeowners, ensuring that HOAs can be held accountable when they ignore the law. I have several persons here with me today who will speak to various provisions of the bill and why they are needed.

Senate Bill 175 contains several sections and addresses four main subjects: lien foreclosure, repair of common elements in an HOA, HOA termination and homeowner-awarded damages when an HOA fails or refuses to follow the law. Section 2 addresses the foreclosure process relating to a lien that an HOA holds for an amount owed by the homeowner. If the homeowner, his or her successor in interest or a member of the household is a veteran, senior citizen or person with disability, this section forbids an HOA from initiating a lien foreclosure by sale. Instead, the section requires the association to go through the judicial process as set forth in chapter 40 of *Nevada Revised Statutes* (NRS). This is not something new; this is something to make certain that some of our most vulnerable persons can protect their most valuable asset.

We are talking about veterans. Fewer than 1 percent of the population today has served in the military. These are people who signed on the dotted line to protect our Country. This is the least we can do to help them stay in their homes. The other vulnerable population is made up of those who are 62 years old and older. If they do not have these protections and lose their home, tell a 60-year-old person to obtain a 30-year mortgage. This is one of the reasons we are bringing this bill. Senate Bill 175 includes protections for those who are differently abled. I am not talking about somebody who has lawyers on retainer. I am talking about some of our most vulnerable people. This is about people who need our help. The laws of this State and, indeed, the laws of the Country should be about protecting our most vulnerable.

Section 2 sets forth the procedure an HOA must follow in a foreclosure process and allows the homeowner to provide information verifying protection qualifications. Alternately, if a homeowner does not provide such information, the association is still required to make a good faith effort to verify whether the person is entitled to protections before going forward with a foreclosure. That is a simple matter of asking, either when the homeowner joins the association or before the process is initiated. This is not too cumbersome. A person who initiates a foreclosure in violation of these provisions is guilty of a misdemeanor

and may be held liable for damages and attorneys' fees. Finally, the section requires each association to report annually to the Real Estate Division, Nevada Department of Business and Industry, information regarding the number of foreclosures commenced against persons who are entitled to these protections under this bill.

Section 11 requires that collection agencies ask homeowners to voluntarily provide information on whether they are entitled to protections afforded by section 2 and report that information to the Real Estate Division annually. I stress the word "voluntarily."

Section 8 of S.B. 175 creates a required notice to a potential buyer of the protection set forth in section 2. Section 3 of the bill provides for the timely repair of common areas and security walls in an association as soon as possible after being made aware the repair is needed rather than the current language, which states within a reasonable length of time. It also provides that the Attorney General may take legal action against an association that fails to comply with this provision and allows for the district court to issue an injunction or grant other relief to compel an association to comply with the law.

Section 5 lowers the threshold to approve the termination of an HOA from a vote of 80 percent to 60 percent of the homeowners. Section 9 contains new provisions allowing treble, special and punitive damages to be awarded to a unit owner in a personal injury suit against an association when injury was caused by the failure or refusal of the association to comply with the law.

Please listen to upcoming testimony with fresh ears because we are talking about our most vulnerable people. These people do not have attorneys on retainer and cannot afford six- or seven-figure attorneys. They are just trying to hold onto their homes the best way they know how.

ASSEMBLYWOMAN CLARA THOMAS (Assembly District No. 17):

As a retired Air Force veteran of 20 years, I support S.B. 175. Most of my service in the Air Force was spent at Nellis Air Force Base. I watched as homeowners' associations developed Las Vegas and recognized we need a bill like S.B. 175. Although there should not be a need for a bill like this, we should respect and honor those who have voluntarily served, those who are over the age of 62 and those who are disabled. This is a compassionate bill.

I am a homeowner. I live in an HOA community and am concerned I could lose my home because of a violation. I have worked for my home as have others. Taking a person's home would be an egregious infringement of the rights of homeowners, especially those who are veterans, seniors and people with disabilities. This bill does not hurt anyone. It enhances the law and protects those who need help.

ANDREW LEPEILBET (Chair, United Veterans Legislative Council):

We support S.B. 175 because it reduces an extreme foreclosure capability to a judicial process which affords some of our seniors and veterans an appropriate avenue to address their financial situations. For example, many veterans and older citizens have significant equity in their homes. An HOA, by means of an immediate foreclosure process on a lien, could take possession of their homes. The bill would slow the process and help those who are struggling.

JONATHAN NORMAN (Nevada Coalition of Legal Service Providers):

Our organization includes Legal Aid Center of Southern Nevada, Northern Nevada Legal Aid and the Senior Law Program of Northern Nevada. We have an analogous process in Nevada for judicial foreclosure. In an extraordinary circumstance, Republic Services, a waste disposal company, can foreclose on homeowners. The difference is it is a judicial foreclosure that allows for legal services to get involved and potentially make a difference. It allows for court mediation programs to get involved and make a difference. When we talk about veterans, seniors and those who are differently abled, it is important to understand how vulnerable they are in a complicated process.

SOPHIA A. ROMERO:

In my career, I have spent over a decade working to protect the most vulnerable Nevadans. This bill furthers that goal. Homeowners' associations often engage in abusive practices. Asking HOAs to go through the judicial process, especially when it comes to the most vulnerable in our community, is not too much to ask. They will present you with a sky-is-falling approach. Everyone's dues are going to go up, and this is going to be horrible for everyone. This is not the case. As Senator Spearman stated, we are looking at a small number of people. We are looking at elderly who tend to have a larger amount of equity in their home. We are looking at disabled people, and we are looking at veterans. This is not a sky-is-falling scenario. As Mr. Norman stated, S.B. 175 does not propose new procedures. It requires HOAs to follow existing Nevada processes.

SENATOR NGUYEN:

I appreciate the intent behind S.B. 175 and understand the problems involved with foreclosures. As a lawyer, I have concerns because while some of these individuals will be able to obtain representation from legal aid or other nonprofit agencies or organizations, a judicial foreclosure system will require all parties to hire a lawyer. I am not so much concerned about the HOAs and the issue of increased fees to cover legal costs. I am concerned veterans and seniors who are unsuccessful in challenging a judicial foreclosure will not only lose their home but will be in debt for attorney fees for the prevailing party.

MR. NORMAN:

As a legal aid attorney, I am repulsed by the idea a person could lose his or her home to foreclosure for unpaid fees or assessments, whether it is to a utility company or an HOA. When there is a mortgage involved as in most cases, the mortgage company satisfies the lien and adds lien costs to the escrow amount. The homeowner can ask for an extension which is usually granted. I do understand the risks of having more attorneys involved. Are we creating a scenario that benefits attorneys rather than vulnerable Nevadans? I argue when you have an engaged judicial process, you have more situational transparency and more opportunities to protect vulnerable people.

SENATOR NGUYEN:

They would be responsible to pay the prevailing parties' fees if they were unsuccessful in this scenario. Is that correct?

MR. NORMAN:

To my understanding that is correct.

SENATOR NGUYEN:

I recognized the problem from the outset and am concerned the consequences of this bill, though not the intentions of this bill, will not solve problems you discussed such as foreclosures by garbage companies and HOAs in general.

MS. ROMERO:

I am a private consumer rights attorney. I have not always been in the private space. I was previously a legal aid attorney, but private attorneys do take these cases on contingency basis. That is only one-half of your question. You asked about unsuccessful foreclosure cases and legal fees. Attorneys' fees can often be negotiated. Additionally, if a house is lost to foreclosure, there are other

protections in place in Nevada law. A person whose only income is social security disability, for example, is protected under garnishment statutes. There are legal protections in place for vulnerable people who are not successful in defending against foreclosure.

SENATOR NGUYEN:

I have concerns because while legal aid does amazing work, it is only able to address a percentage of cases. I would be concerned when a vulnerable person cannot find a legal aid attorney or an organization to provide pro bono services. Because the person is facing a judicial foreclosure, he or she will have to pay an attorney. Do you anticipate individuals representing themselves in a pro se capacity?

Ms. ROMERO:

In addition to legal aid services, there are private consumer attorneys who handle this type of work and claims.

SENATOR OHRENSCHALL:

When you represent veterans and senior citizens who live in HOAs and are in this situation, are you finding they can work things out with the HOA or that things go on a quick pace toward foreclosure? What are your experiences?

Ms. ROMERO:

Our default tactic is to negotiate. We do whatever we can to keep a homeowner in the home, especially in the case when foreclosure is based on unpaid fees.

SENATOR OHRENSCHALL:

Are you finding negotiation is successful? Are you not able to resolve the situations resulting in foreclosure?

Ms. ROMERO:

In some cases, negotiation is successful; in other cases, it is not.

SENATOR HANSEN:

Judicial foreclosures are heard in district court. Is that correct? Cases heard in district courts require legal representation. Is that correct?

Ms. ROMERO:

The answer to your first question is yes because this concerns real property. It would be in district court. The answer to your second question is you do not have to have a lawyer in district court. The only entities required to have a lawyer are corporations and limited liability companies. An individual can appear in district court as a pro se.

SENATOR HANSEN:

I assume that is exceptionally rare, especially among vulnerable people. You would not advise people who have no legal experience to go into a court situation without legal representation.

Ms. ROMERO:

I always advise people to get a lawyer if they are in a court situation.

SENATOR HANSEN:

Can you think of cases where HOAs have abused the privilege of bringing a foreclosure in a nonjudicial action?

Ms. ROMERO:

I have seen people whose homes were paid off and lost their houses over \$3,000 in assessments.

SENATOR HANSEN:

I appreciate hearing details of real-life situations we are trying to solve. Homeowners' association representatives are talking to me, and I have had discussions with Senator Spearman. I would like to understand the extent and severity of the problem.

MR. NORMAN:

I could also connect you with an attorney at our office who is the primary lead handling these cases. He can walk you through what we see day in and day out on these cases.

SENATOR HANSEN:

I appreciate the offer of assistance. Every two years, we address HOA bills at the Legislature. There are thousands of HOAs in Nevada, and it seems some of the issues we discuss could be handled at the county or city level.

SENATOR SPEARMAN:

Last Session, a woman who was fighting cancer lived in a condominium that was paid off. There was an issue with her plumbing. Her testimony was that feces was backing up into her sink, and she had it fixed. The plumber told her the problem was buildingwide and should not be her responsibility. She had it fixed because the HOA did not step in. It cost her several hundreds of dollars. When she sent the bill to the HOA, it said this was not an HOA responsibility. The plumber had clearly stated in the comments of the bill that the issue was related to the buildingwide plumbing system. She called me and asked to meet. I agreed and asked her to testify. She was facing losing her home and was crying. She said, I am fighting cancer and I am fighting my HOA because the only thing I did was withhold my dues to make up for the money I paid.

Another individual who testified last Session submitted a request to her HOA to paint her home, but the request was not acted upon in a timely manner. She followed up and asked the HOA for guidance. She went through the neighborhood, looked at some of the newly painted houses and had her home painted the same color as others in the neighborhood. The HOA informed her that because she was not granted permission, she was required to repaint her home and pay fines until she did.

Senate Bill 175 is designed to protect the most vulnerable. The protections in this bill are similar protections in place for consumers. If you must go to court, you must get an attorney. If these protections are not in place, then the homeowner has nothing. This bill may not be perfect, but I would ask the Committee and those listening to not let the perfect be the enemy of good.

When people are losing their homes, there are veterans' organizations that will step in and pay delinquent fees. Foreclosure mitigation is also available. There are other remedies, but without a bill like this, these foreclosures will continue. If there are only a small amount, there are still veterans and seniors and those who are differently abled who will be able to stay in their home.

I do not understand any mindset that says it is alright to foreclose on a veteran, a combat veteran or someone who is 62 years of age and struggling. The woman I talked about was fighting cancer. Her condominium was already paid for.

Here is the real reason I brought this bill. Two veterans called me during the Interim. One called me because he was looking for housing. He said he had a house but ran into some problems with his HOA. He was not able to pay his fees. I said, what are you talking about? He asked whether he would lose his home. I said, what are you talking about? He said he had received notice of foreclosure. I said, what are you talking about? He said his home was foreclosed and he could do nothing.

Many people have told me they are having similar problems but are afraid to come forward for fear of retaliation. This should tell us something about the system. One man who is a Vietnam combat veteran called me and said he was in a heated battle with his HOA because he could not pay his fines. He said he was suicidal. I said, no, you are not going to kill yourself. I helped him find some resources including legal aid and foreclosure mediation. That is the only reason I am here with an HOA bill. For veterans, for seniors and for those who are differently abled, I will go to hell wearing kerosene underwear and fight for them and come out alive.

SENATOR STONE:

No one questions your dedication to veterans. I appreciate your passion, and I share the passion with you. I share your passion for the disabled population. I share your passion for the elderly population as exemplified by 28 years of public service. Whether I support or do not support this bill will not abrogate my support for these organizations.

When you buy a home or condominium in Nevada under NRS 116.41095, a form must be presented to a buyer when escrow is opened. This mandate requires information be provided to owners so they will understand what it means when they buy property within a managed HOA. This is important; after prospective buyers review the contract, within five days they can cancel escrow and receive a refund of their earnest deposit.

The information statement states persons generally have five days to cancel purchase agreements. Home purchasers are agreeing to limitations that it could affect their lifestyles and freedom of choice. They will have to pay owners' assessments for as long as they own the property. They are responsible for paying a share of expenses relating to the common elements, such as landscaping and the amenities and operation of the HOA. The obligation to pay these assessments binds them and every future owner of the property. The

executive board of the association may have the power to change and increase the cost of assessments to levy special charges against property for extraordinary expenses.

The fourth provision provides that failure to pay owners' assessments could result in loss of the home. The association usually has power to collect assessments by selling properties in a nonjudicial foreclosure sale. If fees are delinquent, homeowners may be required to pay penalties, the association's costs and attorney fees to become current. If homeowners dispute the obligation or its amount, the only remedy to avoid foreclosure may be to file a lawsuit and ask a court to intervene in the dispute. In either scenario, whether a nonjudicial foreclosure or a judicial foreclosure, if an owner wants to save his or her property, of course, they can represent themselves. But that certainly would not be the advice of any attorney on this dais.

Why is that important? The HOAs maintain the health and safety of the community by making sure landscaping is tended, gyms are clean and the toilets are maintained. They may have security officers and a security gate needing maintenance. They have many responsibilities. A good association maintains some of the great values people have been expressing in real estate in the past few years.

I have concerns because if we are creating a separate class of members of HOAs and certain owners do not pay their assessments, HOAs will need to consider more expensive and prolonged ways to collect those assessments to ensure the remainder of owners do not have to pay higher fees. We have seen fees increase due to inflation. Utility rates have gone up, and the water is generally included in HOA bills. Owners are frustrated with HOAs when costs increase. Many of us think serving in the Legislature is a thankless job. A more thankless job is serving as a member of an HOA board. It is a difficult job, but they do serve a purpose.

Nonjudicial foreclosures do not occur immediately upon delinquency. It may take a year or even longer, and homeowners may collect a portion of the proceeds of the sale, following deduction of fees, fines and penalties. In a judicial foreclosure, can the property owner keep any of the proceeds from the sale?

MR. NORMAN:

In a judicial foreclosure, proceeds are obligated to the mortgage holder, the HOA and attorney fees. Any balance would be paid to the homeowner.

SENATOR STONE:

What is the biggest exposure for property owners in a nonjudicial versus a judicial foreclosure? Are there more legal fees in a nonjudicial or a judicial foreclosure? It is my understanding a nonjudicial foreclosure is not legally cumbersome and, therefore, less expensive.

MR. NORMAN:

That is correct, but that is the case for every legal proceeding in our Country. That is not an argument to settle disputes outside of the judicial process, especially when they involve something as significant as people's homes.

SENATOR STONE:

Senate Bill 175 provides for a reduction of the percentage of unit owners' votes required to terminate a common-interest community from 80 percent to 60 percent. In the event an HOA is dissolved, who will be the successor in interest to make certain landscapers are paid, gates are maintained, restrooms are cleaned, gym equipment is well maintained and property taxes are paid. Who will take over those responsibilities?

SENATOR SPEARMAN:

The process in place for a 60 percent vote is the same process in place for an 80 percent vote. Homeowners can make the necessary decisions.

Senator, you are mentioning gyms. Most of the people facing foreclosure live in areas and complexes without gyms. The gym is walking around the park. The gym is walking up and down the street. People who have gyms and swimming pools need someone to maintain their facilities. We are not changing the process.

Which NRS did you cite regarding an information statement?

SENATOR STONE:

Nevada Revised Statutes 116.41095 is required by NRS 116.4103 and NRS 116.4109. The statement is required to be provided to prospective buyers prior to purchase.

SENATOR SPEARMAN:

Statute is continually reviewed and revised when needs are identified. We do this every Session, even several times a Session. We look at existing law and say we need to make adjustments. Once upon a time, slavery was legal, and we figured out it was not right. Once upon a time in Nevada, it was okay to pay women differently than men. We changed statute. Laws are passed and laws are altered.

The people I am fighting for do not have a lawyer. Everyone who signs a mortgage has every intention of paying it off. Sometimes, things happen and people do the best they can.

This is a tough assignment. I have no illusions. Several people in this building are paid a lot of money to make sure S.B. 175 does not pass. My hope is that compassion will lead the way when people are debating this bill. We are not talking about not paying assessments. We are talking about a process that allows an extra layer of protection for veterans, seniors and the people who are differently abled.

MS. ROMERO:

Many of our clients have been able to pay off their mortgage and are only responsible for HOA dues.

In response to questions related to HOA board termination votes, boards are elected and over time they change. An HOA could be effective and fair for years and then something happens.

When discussing attorneys' fees, it is a mistake to assume foreclosure in a judicial foreclosure. The foreclosure is not a foregone conclusion; there is a chance to change the outcome. A person has the chance to explain his or her reasons for withholding payment. It may be because he or she had to pay for plumbing bills that were the HOA's responsibility.

In a nonjudicial foreclosure, foreclosure is a foregone conclusion. While attorney fees are higher in a judicial foreclosure, there is at least a chance foreclosure can be stopped. That is the intent of S.B. 175.

SENATOR STONE:

Can a homeowner in a nonjudicial foreclosure asserting inappropriate and unrealistic reasons for foreclosure hire an attorney and stay the process until the lawsuit is heard?

MS. ROMERO:

You are asking whether the process can be inverted. That is an option of which most homeowners are unaware. They feel the process is out of their control.

How many people who have bought a home read every word of the contract? We are talking about elderly people. We are talking about veterans. We are talking about differently abled people. This layer of protection should be in place. We should not have to be here to do this. But for these groups, for these people, this layer of protection needs to be in place.

SENATOR HANSEN:

I agree and want to protect people. My concern is we may make the situation worse. We want to protect veterans, seniors and disabled people. We just want to make sure that in the process, we do not end up generating a greater cost on these people. The last thing I want to do is have senior citizens or veterans, especially combat veterans, removed from their homes. On the other hand, I do not want to create a process that could potentially make it worse. I want to get that on the record.

SENATOR SPEARMAN:

You are right. One board which comes before the Senate Committee on Commerce and Labor is the State Contractors' Board. The Board provides a provision for homeowners who have been unjustly treated to seek remedy from the Contractors' Board, though they may need to obtain legal representation.

Medical boards address grievances against physicians and medical practices. If individuals want justice, they will need to hire an attorney.

This is an argument I expected: we may want to protect vulnerable people, but S.B. 175 may make situations worse for vulnerable people. When there is injustice, we need to hire an attorney. A judicial foreclosure provides a 50 percent chance of maintaining the home, while a nonjudicial foreclosure almost guarantees loss of the home. Some of the processes we are talking about are already in place. The bill proposes the same judicial eviction process

used during COVID-19. No judicial procedure guarantees a favorable cost-free outcome for the complainant, but we are advocating an additional layer of protection for vulnerable people to help them stay in their homes.

SENATOR KRASNER:

Does the Legal Aid Center of Southern Nevada provide free legal services to seniors?

MR. NORMAN:

Yes.

SENATOR KRASNER:

Does Northern Nevada Legal Aid provide free legal aid to seniors?

MR. NORMAN:

Yes.

CHAIR SCHEIBLE:

Senator Spearman, from a policy standpoint, your preferred solution would be to end foreclosures related to HOA fees. Is that correct?

SENATOR SPEARMAN:

Yes.

CHAIR SCHEIBLE:

Our second option is S.B. 175.

SENATOR SPEARMAN:

I am trying to make certain protections are in place. There are good HOAs and bad HOAs. We have stop signs to protect pedestrians and drivers, but not everyone is going to stop. That does not mean we take down stop signs. That means we tell people if they do not stop, they will be penalized.

CHAIR SCHEIBLE:

I want to make sure we are all looking at this the same way. In my understanding, S.B. 175 proposes three key provisions. First, it addresses the foreclosure process. The bill moves foreclosures for veterans and their family members, people over the age of 62 and people with disabilities from the nonjudicial process into the judicial process and provides them with certain

notice. Second, the bill strengthens requirements for HOAs to perform repairs in and around the community. Third, the bill reduces the threshold from 80 percent to 60 percent for a vote of the members to dissolve the HOA.

Am I missing anything?

SENATOR SPEARMAN:
That is basically it.

CHAIR SCHEIBLE:
Does existing statute allow judicial foreclosure for specific groups of individuals?

MR. NORMAN:
Are you asking whether there are other situations when we set aside classes of people in the foreclosure process? Unless I am mistaken, we do not.

CHAIR SCHEIBLE:
When a foreclosure goes to the judicial foreclosure process, parties do not walk into court and receive a decision on the first day. There is fact-finding, discovery and an opportunity for negotiation. Is this correct?

Can you educate us about the process, whether negotiations are common, and what they might look like.

MR. NORMAN:
There is a lot of negotiation, and it tracks general civil litigation. There is a period of discovery. There could be an interrogatory request for production of documents and then mediation. There are many opportunities to resolve the question, especially if mortgage companies are at the table. The HOA can be made whole through a settlement agreement, and the homeowners' concerns may be resolved.

CHAIR SCHEIBLE:
As in other forms of civil litigation, most cases are settled.

MR. NORMAN:
Yes.

CHAIR SCHEIBLE:

I am surmising from testimony we have heard so far that lawyers—both retained attorneys and attorneys who provide indigent services—are involved in the judicial foreclosure process. It would be unusual in the nonjudicial process for an attorney to be involved.

A person going through a nonjudicial foreclosure will struggle to find a consumer advocacy attorney for representation. Indigent defense attorneys may be reluctant to provide services under these circumstances. Am I correct?

MR. NORMAN:

I can only speak to legal services. We are involved in all types of issues. In the case of a nonjudicial foreclosure, we reach out to the HOA and search for an ability to come to an agreement.

MS. ROMERO:

If an individual receives a notice of default and a nonjudicial foreclosure, it would be difficult to retain a private attorney.

SENATOR OHRENSCHALL:

From your experience or discussions with legal aid attorneys in other states, do you find the judicial foreclosure process can be successful in protecting individuals' homes?

MR. NORMAN:

Yes. In judicial foreclosure, there are many more opportunities to get off the path to a bad outcome. Not every state provides for foreclosure mediation, but there are other opportunities and settlement plans. Certainly, as litigation develops, the cost of litigation increases. For example, if you survive summary judgment, the impetus to settle cases is high. In judicial foreclosure, there is an improved likelihood of settling the case and allowing the consumer to maintain his or her home.

SENATOR NGUYEN:

We have some protections in place for active or deployed military members. What kind of protections do they have? Is judicial foreclosure one of their protections?

SENATOR SPEARMAN:

No. They have the Servicemembers' Civil Relief Act, which is federal law.

SENATOR NGUYEN:

Does S.B. 175 emulate any part of the Act? I understand the Act requires servicemembers to actively inform mortgage lenders of their service status. How do you envision notification of HOAs of homeowners' protected status?

SENATOR SPEARMAN:

It is voluntary. Homeowners' associations could include a survey with their paperwork for new residents.

MS. ROMERO:

Homeowners' associations require a credit application with date of birth, social security number and other identifying information that sometimes includes military status.

TONY GRADY (United Veterans Legislative Council):

I spent 20 years in the United States Air Force, and I would like to speak for S.B. 175. Many things can happen within an HOA. I live in an HOA and have served on an HOA board. Nonjudicial foreclosure is not in the interest of veterans. Veterans practice attention to detail, so when they have a problem there are better ways to find solutions.

JAMIE COGBURN (Nevada Justice Association):

We support S.B. 175. We appreciate the concerns of Senator Spearman and Assemblywoman Thomas. A home is a person's most valuable asset, and the bill gives them an extra layer of protection.

DONNA JEAN COQUILLA:

My father is a retired veteran with Alzheimer's disease. He has had two strokes and owns several rental properties. In January 2023, one of his tenants posted a photo of a three-day notice taped to his door. It was from the new owner. My father thought it was a hoax. The mortgage was always paid on time. He sent checks to the HOA and the collection agency for dues to the end of the year. While he was waiting for a response, without notice, he was billed almost \$4,000 though HOA fees are only \$15 a month. Because he had not received a response, he thought there was no issue with the property. Six months later the property was foreclosed without his knowledge. How could a \$15 a month HOA

assessment turn into a foreclosure without notice? Some of the months the fees increased over \$1,000. We are not asking for the dissolution of HOA dues. We are asking to slow it down, especially for seniors with Alzheimer's disease. In my father's case, he was depressed and not making the right decisions. Since December 2021, he was visiting my mom every day in the hospital. I have power of attorney now for his properties and his health. The HOAs and collection agencies charge excessive late fees, sometimes over \$1,000 a month. Homeowners' associations ignore homeowner calls and requests to discuss fees. They ignore homeowners' checks and letters. Notices from HOAs sometimes look like junk mail. These tactics may be intentional because these vulnerable groups may have a good deal of equity in their homes. I came here to speak up for the seniors, veterans and the disabled.

GARRETT D. GORDON (CAI Nevada):

We strongly believe that this bill as written will increase costs to associations, resulting in increased assessments to homeowners—both homeowners who are in arrears and homeowners as a whole—by replacing nonjudicial foreclosures with expensive judicial foreclosures. There is a less expensive option. We worked on mediation with Senator Ohrenschall while he was a member of the Assembly. In the event of a dispute between homeowners and their HOA over Declaration of Covenants, Conditions and Restrictions (CC&Rs) and the foreclosure process, they can enter a mediation process and have a third-party nonbiased mediator rule on the dispute. There is also the avenue through the Commission for Common-Interest Communities and Condominium Hotels (CICCH). You can file a complaint. There is an investigation, and homeowners speak before the Commission, which can resolve disputes and negotiate settlements.

In addition to the three main points outlined by Chair Scheible, S.B. 175 proposes levying treble, special or punitive damages on HOAs on behalf of a unit's owner under certain circumstances. These damages could amount to hundreds of thousands, if not millions, of dollars. The cost would fall to homeowners through special assessments. We do not believe that treble, special or punitive damages are appropriate for a nonprofit volunteer board or its association.

When an HOA is disbanded by 60 percent of unit owners, who will maintain the roads, who is handling the snow, who is paying for the landscaping, who is handling the gates? Cities and counties will have to step in and take over the

expenses, likely with a special assessment. We have many concerns but also have suggested solutions we would be happy to share with the Committee.

JEFFREY LOFY:

Thank you for allowing me to testify in opposition of S.B. 175. I have submitted written remarks ([Exhibit C](#)). I am a homeowner and board member of Miramonte Homeowners Association in Sparks. I am also a member of CAI Nevada and its Legislative Action Community.

JOSH HICKS (Nevada Home Builders Association; Southern Nevada Home Builders Association; Builders Association of Northern Nevada):

The organizations I am speaking for collectively represent the homebuilding industry throughout the State. Our opposition to S.B. 175 is focused on two sections, section 5 and section 9. Section 5 of the bill allows the voting threshold to dissolve a common-interest community to be reduced from 80 percent to 60 percent. That is a concern because these common-interest communities are often organized and established by the developer of the builder from the beginning, requiring a significant amount of time, resources and effort. The reason for these efforts is to provide longevity and quality in the community. We want to make sure that homeowners have high-quality homes that will last for a long time. The idea that HOAs could be dissolved more easily is problematic. It could impact the quality of the entire community. It is true the county or city may take on some of those obligations. Some jointly owned obligations, for example, roofs or even walls and condominiums can become tenants in common, requiring cooperation with neighbors on upkeep issues.

Section 9 of the bill increases damages for actions against an association. The home builders' concern is this provision will increase insurance costs. Insurance policies are priced by the amount of exposure. Having significant exposure to more damages will increase those insurance costs. It leaves less money available to the HOA to do the things it should be doing with respect to the common elements. For these reasons, we oppose the bill.

DONNA ZANETTI (CAI Nevada):

I am an attorney. I am 62 years of age, and I also have a disability. I am a member of the Nevada CAI Legislative Action Committee. My job today is to provide some facts about HOA foreclosures over the past two years. These numbers come from the U.S. Census, the Real Estate Division and county recorders' websites. As of July 2022, in Nevada, 3,584 HOAs comprise over

616,000 units. This represents 47 percent of the State's housing stock. The overwhelming majority are in Clark County with 2,884 HOAs made up of 504,580 units. The Clark County Recorder does not have a separate category for HOA foreclosures but working from the recorded notices of sale, which is the final notice before foreclosure, there were a total of 240 HOA notices of sale. This represents one half of 1 percent of the HOA units in Clark County. By comparison, lenders recorded over 2,800 notices of sale during this period. There were only nine HOA foreclosures in Washoe County and zero in Carson City, Douglas, Lyon or Nye Counties. Together, these cities and counties have a total of 682 HOAs. One of the categories of persons this bill seeks to protect are senior citizens. If this group were in need of greater protection, one would assume the foreclosure rate of seniors in HOAs would reflect that need. They do not. The community associations of Sun City Summerlin, Sun City Aliante, Sun City MacDonald Ranch and Sierra Canyon are senior adult HOAs representing more than 13,000 units that recorded two foreclosures over a two-year period. There are over 202,000 veterans in Nevada. I could not find information on the number who live in HOAs or have been subject to HOA foreclosures. In summary, legislation should be based on facts, and the facts do not support this bill.

ALEX ECHO:

I have been a HOA board member for about 25 years. The extra protections for veterans and seniors are a wonderful sentiment. However, veterans presently have many benefits via the U.S. Department of Veterans Affairs (VA) such as medical care, GI Bill and military retirement. Seniors have Medicare and social security. Why should we require HOA members, neighbors of seniors, pay for their additional benefits? Why do we put this cost on a small group of people? For example, if a veteran's car is repossessed, should we require those neighbors to make payments so he or she can keep a car? Neighbors also struggle. They are working-class people. They have issues and problems. If Nevada wants to provide more benefits to these groups of people, the State should pay for them rather than their neighbors.

TONYA BATES (CAI Nevada):

I am a community manager with a management trust representing over 15,000 constituents in 6 Nevada counties. I am hearing impaired which is considered a disability under this bill. You may notice my speech impediment due to my impairment. My parents purchased my childhood home in Las Vegas in 1988 with a VA loan. My father is a Vietnam Air Force veteran. I respect

Senator Spearman's passion for this vulnerable population. For clarification, this bill does not prevent an association from foreclosing on a veteran, senior citizen or person with disability but merely moves it from a nonjudicial foreclosure to the more expensive judicial foreclosure. Additionally, we cannot foreclose on a home because you painted your home the wrong color. We cannot foreclose based on fines. Senator Hansen resided in an HOA that I dissolved in 2012. Washoe County extended the roads, and those homeowners were charged a \$21,000 special assessment for paving and maintenance. We still had to meet the threshold of the 80 percent vote for that to occur. That is one of the only associations dissolved in Nevada. As a community manager with a disability, section 10 of S.B. 175 provides for the suspension or revocation of my license. That is how I make my living and support my family. I do understand Senator Spearman's passion. I am just as passionate.

RONDA THEISEN:

I am the president of a 100-unit condominium association in Reno. We do not keep demographic information, nor are we an age-restricted community. My guess is upwards of 95 percent of our membership would fall under these categories. One hundred percent of our members as well as every other homeowner in Nevada in an HOA is put at financial risk should this bill pass into law. You are concerned about association attorney bills. Every time our association attorney reads an email, it costs us money. Every time there is a request for advice, it costs us money. Who pays? The homeowners pay. Veterans, seniors and disabled people will have to pay their own attorneys and their share of raised assessments. It will cost money, and it will take time. I devote a minimum of 20 to 40 hours a week volunteer time to my HOA to honor my commitment under the laws of Nevada, which is to make the best business decisions for my association. This bill threatens me, not only with treble and punitive damages but a misdemeanor charge if things do not go the way somebody thinks they should. Nobody wants people to lose their homes. That includes board members. We want people in their homes. Do not raise the costs of keeping people in their homes. Let us work through existing avenues to avoid foreclosure. It is what we all want. There should be no question about that. Please do not let this bill get out of Committee.

LORRIE OLSON (Nevada Association of Community Managers):

I am a Nevada-certified supervising community association manager and have been for more than 20 years. I am considered a subject matter expert. It is all about the law. This is not about emotions. It is not about zip codes, not color,

not race, not economic status. It is about the law. My job as a community manager is to follow the law that Legislators have written for us. If I do not follow the law, I could end up in front of the CICCH where I could be fined thousands of dollars, or I could lose my license. It is important to note we are not discussing dues; they are assessments. Fees and assessments are completely different. Assessments are one thing; there are no dues in HOAs unless you belong to the fitness club.

Attorneys charge by the hour. To say HOA assessments will not be raised because of attorneys' charges is one of the most ridiculous statements I have heard. When we raised seniors' assessments by \$3 a month to \$40 in January 2023, it caused a hardship for many of those homeowners.

Homeowners' associations have at least \$18,000 in accounts receivable funds. Why? Because they are following the law, and it takes that long to get through a process to collect your money. I can tell you that one judicial foreclosure for an HOA will bankrupt them. They will need to have a budget amendment, or they will not be able to afford legal fees. Smaller HOAs do not budget for legal fees; they do not have the income. The county can foreclose when homeowners do not pay property taxes. I would be interested in knowing what the county does when the homeowner is a veteran, elderly or disabled.

Nevada Revised Statutes 116 outlines written collection policies which we follow so we do not end up in front of the Commission.

NEIL STROCCHIO:

I have been an HOA board member for over ten years. Senate Bill 175 will both undermine the ability for associations to fund their day-to-day expenses and future repair-and-replacement obligations, forcing them to make repairs on a timeline that would be increasingly difficult. Nonjudicial foreclosure is tightly controlled by existing law, and protections are in place for service members and their families. This collection option is an effective tool in discouraging homeowners from becoming delinquent in their assessments. In fact, nonjudicial foreclosure is used only as a last resort in a small percentage of delinquencies. Most often, the possibility of foreclosure is enough to encourage homeowners to bring their accounts current. By eliminating this option and allowing only judicial foreclosure to recover delinquent assessments and only in certain circumstances, an increasing number of homeowners may no longer see the need to be diligent in paying these assessments on time or even at all. The

increasing costs of judicial foreclosure through an attorney will only exacerbate the situation.

Property values for a high percentage of your constituents could plummet as their homeowners' associations struggle under the weight of decreasing income and increasing costs. This could also create a ripple effect in the greater real estate market. I wonder whose interest this bill serves. There is not one good argument for giving this bill even the slightest consideration. Please make sure none of these provisions ever make their way into common-interest community legislation.

JOHN LEACH:

I am speaking at the request of the CAI Legislative Action Committee. I have been involved with the Association since 1988 before this law existed. I have been involved in virtually every Legislative Session since the act was adopted. It is disturbing that every two years we must come in and address misunderstandings and misinformation before you decide. I have heard people say foreclosures are immediate and fast, and neither are true. This is one of the most-regulated areas of the law that has been changed many times over the past several years. Nevada statute is more beneficial to veterans and those serving in the military because it extends a year after their service. It is highly regulated by Nevada and federal law. There are federal requirements about notices that must also go out.

A foreclosure timeline reveals at least 13 to 16 months are required before a foreclosure sale. The number of notices sent to the homeowner along the way is between six and nine, both regular and certified mail. When a person says he or she was never given notice, it is simply not true. The notices are given repeatedly and frequently as required by the law. Importantly, the first notice that the law requires to be sent not only tells homeowners to inform the HOA if they are a veteran but also offers a payment plan. Homeowners' associations are required by law to offer a payment plan, which could be three or six months. As this process proceeds and the amounts increase, associations are accepting three- and four-year payment plans to deal with the past due balance because it is more important we keep homeowners in their homes.

If you really want to do something for seniors, veterans and the disabled this Session, then you will not allow this bill to go anywhere because all it will do is make those people pay more because of the judicial foreclosure process.

GREGORY KERR (CAI Nevada):

I oppose S.B. 175 because of the reduction of the termination vote requirement from 80 percent to 60 percent and the punitive damage issues. Reducing the voting requirement means as many as 40 percent of a common-interest community can lose membership rights and privileges. Who is going to take care of the pool, the parks, the playground, the clubhouse, the streets and the landscaping? If local government is willing to take on these responsibilities, it will not be without cost. Many of the people described as vulnerable, the veterans, the elderly and the disabled benefit as members of an HOA association. They may lose membership privileges under S.B. 175.

Regarding punitive damages, it is important to recognize HOAs do not have resources beyond assessment payments from homeowners. When a punitive damage is awarded against an HOA, the association does not pay, homeowners do.

Under NRS 116.3117, judgment creditors have a statutory lien against the actual homes themselves, not common areas. If homeowners are unable to pay a special assessment, the judgment creditor can foreclose those homes. Some of those owners who cannot pay a special assessment are veterans, elderly or disabled. They may lose their homes, not to the association but to a judgment creditor.

ERIC THEROS (Nevada Association of Community Managers):

As community managers, we are tasked with caring for every homeowner within an HOA while also protecting the overall organization. The community managers help facilitate and implement laws passed by the State. We have perspective on potential unintended consequences of legislation. Senate Bill 175 could be detrimental not only to the common-interest communities in general but to most owners living in that same community for a multitude of reasons.

Judicial foreclosures will not provide relief to homeowners. The only affordable way an HOA can perform collections of delinquent accounts is through the nonjudicial process. The route allows the association to engage a professional collection company to collect fees from homeowners. Whether a community is small or large, every association can afford to enforce delinquency recovery. However, judicial foreclosure could cost from \$20,000 to \$80,000 and that is only if it is lightly contested. Some common-interest communities do not even have an annual budget of \$45,000 and would not be able to spend that much

on an individual account. Who would pay for that \$45,000? The over 90 percent of owners who are not delinquent would pay a special assessment which would not be fair.

In addition, another section of the bill suggests modifying the current 60-day right of redemption period to a full year. This would adversely affect communities throughout the State. If an owner walks away from a property and leaves it vacant, the risk of squatters is more and more prevalent. A one-year redemption period means that those homes would be vacant for an entire year, attracting transient individuals.

STEVEN PARKER (Community Association Management Executive Officers, Inc.):
Senate Bill 175 will damage the groups of individuals the bill intends to help. In testimony today, there is little dispute regarding homeowners' obligations. The question is whether the nonjudicial process should be replaced with a judicial process. The advantage of the nonjudicial foreclosure process is it is substantially less expensive than the judicial process. When a disabled veteran falls behind on assessments and goes through the nonjudicial foreclosure process, he or she will have a variety of settlement options long before that account is referred to collections. A nonjudicial foreclosure process is an inexpensive and effective means to resolve delinquent accounts and protect the interests of vulnerable homeowners.

LYLE MCKENZIE:

I am a senior disabled veteran who retired from the United States Army after 22 years. I am president of the Eldorado Neighborhood Homeowners Association located in North Las Vegas. My community consists of 1,586 single family homes. Homeowners' associations are not lying in wait to foreclose on the homes of veterans, the disabled and seniors. In the six years I have been president of my association, we have never foreclosed on a single home. In the rare instance a homeowner falls behind in assessments, we work to establish a reasonable and manageable payment plan. Senate Bill 175 requires collection actions to be taken to court. This would substantially increase collection costs for the people it intends to help. All association members share the cost of judgments against the HOA. Allowing treble and punitive damages for innocent mistakes would subject other veterans, seniors and disabled persons to increased assessments. Many of these people are already struggling to pay their bills, buy groceries and pay other costs of maintaining a healthy life. To impose

on them a share of any judgment would seriously degrade their health and cause irreparable harm. I urge you to not pass this bill out of Committee.

SHARATH CHANDRA (Administrator, Real Estate Division, Nevada Department of Business and Industry):
We are neutral on S.B. 175.

CYRUS HOJJATY:

Except for condominiums and especially for detached homes, we should avoid dealing with HOAs and rely more on small city government ordinances and on building more durable products for structures.

LORI E. BURGER (Senior Vice President, Eugene Burger Management Corporation of Nevada-Reno):

I am a member of the CAI Legislative Action Committee of Nevada. I appreciate the intent of the bill, but S.B. 175 targets midlevel employees of management companies like ours and puts our livelihood at risk for decisions made by others. I say this because the board makes decisions, and we carry out those decisions in an agency relationship. Most managers have no supervising authority over the accounting staff or decisions made by HOA boards in the collection process. There is already a chronic shortage of managers, and this bill will exacerbate the problem. It also creates a greater financial burden on all members, including seniors and disabled persons. The collection costs will become astronomical due to the judicial foreclosure requirement and treble and punitive damage charges. For example, our firm manages 20,000 homeowners' associations in Nevada, both Reno and Las Vegas. Owners are not required to provide any loan information to us. We have no information regarding age, gender, nationality or any demographic information. In a two-year period from 2021 to 2022, we sent 60-day delinquency notices to 2,248 homeowners, and 94 percent of the homeowners brought their accounts current. No further collection activity was required. Foreclosure is extremely rare. This is because our team can provide homeowners with information about their balances, allowing them to quickly resolve the issue and avoid costly legal expenses. We explain the reasons the account has become delinquent. We offer payment plans as required by law, and owners take advantage of this option. Sometimes, it is just a simple question the homeowner did not understand or has made an honest mistake. In my 44 years of experience, the HOAs simply want the delinquency to be resolved. They do whatever they can to help the homeowner become current. Nobody wants a homeowner to lose a home.

KRISTOPHER YERGER:

I am a retired and disabled combat veteran with over 16 years combined homeowner experience in Nevada common-interest communities. I have submitted written comments ([Exhibit D](#)). I urge you to oppose S.B. 175 because it will harm common-interest community homeowners. It is always in the interest of HOAs to work with homeowners to avoid foreclosures. However, requiring HOAs to pursue expensive judicial foreclosures or delinquent assessments can cost HOA members tens of thousands of dollars for each foreclosure. *Nevada Revised Statutes* 116 provides a structured and lengthy process for HOA foreclosures. The bill will ultimately harm many of those it purports to protect.

Homeowners' association boards, elected volunteer homeowners and licensed professional community managers are accountable to the homeowners of the community. This bill seeks to impose criminal penalties against community managers for doing their job. This will ultimately increase the cost to homeowners. Reducing the percentage of votes required to terminate a common-interest community and conflict with the CC&Rs of most communities makes no sense. This ignores the treatment of common elements. After such termination, the city or county will not take ownership of the infrastructure, certainly not without significant cost to homeowners.

JAMES STRASSER:

I am a lifelong resident of Las Vegas. I am a lifelong Democrat. I am the son of a Vietnam veteran, and my two parents died of cancer. I have worked for 17 years as an HOA manager in the Las Vegas Valley. I have approved every payment plan a homeowner has ever proposed to me. We make extraordinary efforts to contact homeowners in arrears by mail, certified mail, email, phone and in person. I also serve on an HOA board. From those who have spoken in support of this bill, I have heard misleading testimony that the nonjudicial foreclosure process is fast. We have heard stories of HOA disputes. Everything has two sides. Those who have spoken in support of this bill have referred to HOA assessments as dues or fees like your gym membership or Netflix subscription. Homeowners' associations are responsible for streets, sidewalks, drainage swales, fire suppression, sprinklers and other infrastructure that must be maintained for the safety and welfare of the public at large. I managed a community with a sewer system maintained by the HOA and served 1,600 homes. Because of builder flaws, sewage flowed through the streets on

several occasions. Fortunately, the HOA had funds available to remedy the problem.

Those who have spoken in support said this bill will not let relieve any one of his or her assessment obligations, but this is false. It will let them off the hook for years until they sell their homes or pass away. This is true for all HOAs regardless of the number of units. Once word gets out that homeowners do not have to pay assessments, many will stop paying and HOAs will not be able to function. Large HOAs can afford attorney fees, and individual homeowners will be at a disadvantage in a judicial foreclosure.

It would be an injustice to create a bifurcated system where owners in small HOAs are treated differently than those in large HOAs. Service members have protections, though I have received falsified information from unscrupulous people using stolen valor to abuse the law. This bill would invite the same unethical behavior. I strongly urge you to vote against S.B. 175.

LISA (Unidentified Testifier):

I am a community manager working in the HOA industry for over ten years and own a home with an HOA myself. People do not understand HOAs, and I recognize they have a bad reputation. Most people do not understand why we have HOAs in Nevada. During the extreme growth of our small city in the late 1980s and 1990, it was determined that the city and county could not support the kind of growth we were experiencing. Homeowners' associations were developed to allow for the continued growth while relieving city and county code pressures from the local government. In creating HOAs, the responsibility of performing inspections and enforcing those codes is managed by HOAs. This is also true of the cost for maintenance of items like streets, street signs and streetlights, just to name a few examples. Like an HOA, city and county codes prohibit allowing overgrown trees to cover street signs or holding a yard sale every week. However, cities and counties do not have resources to inspect and enforce codes. Homeowners' associations have management companies and the ability to enforce codes. Inspections and enforcement are only a part of the responsibilities. The larger issue is maintenance costs.

Homeowners' associations collect assessments from owners in the neighborhoods. The owners benefit by living in a community that has streets without huge potholes, working streetlights, easy-to-read street signs and well-manicured landscapes, all of which sustain and even improve property

values for owners in the community. It is no secret. Everything in the world costs money and maintaining an association is no different. When there are ten homes in an HOA and it cost \$10,000 per year to operate, each owner would need to pay \$1,000. What if one owner cannot or will not pay? Then nine owners must come up with the money to run the community and now the other nine are responsible for \$1,111.11.

SUSAN PROFFITT (Nevada Republican Club):

As a landlord, my experience has been that the banks are often the primary problem, as was the case when my daughter became a recent fentanyl casualty. But I am still neutral, even though it makes putting a lien on property difficult. I would like to point out the constitutional aspect of it. It carves out a special privilege for specific groups.

I request that our Legislature take a few minutes to remind HOAs not to break State and federal laws regarding election signs. Law provides for one sign per candidate, not per yard as confirmed in Clark County by six lawyers and several judges. We do not want to get these threatening calls again.

SENATOR SPEARMAN:

When I brought this bill, I was aware of running into a buzz saw, and I did. I needed to bring it to raise awareness. I want to clarify we have heard from several people today from CAI Nevada. Information regarding the organization can be found at <<https://caionline.org>>.

On an annual basis, HOAs nationwide collect \$103 billion from homeowners. I have heard there have not been any foreclosures despite \$1 billion of losses in Reno and Las Vegas HOAs plus 611 foreclosures from 2013 to 2016, amounting to approximately an \$840 million loss in home values. I have heard people say that does not happen, but it does happen approximately ten times each month. That is the standard foreclosure rate in Nevada.

This is large scale. They are not the small 50 or 100 homes many people talked about today. Most HOAs are much larger. I am putting this on the record because I need people to know we are not talking about a mom-and-pop shop. Nothing in this bill prevents people from negotiating before foreclosure. The bill is simply a way to say if you are going to foreclose on a veteran, on someone who is aged 62 or someone who is differently abled, then please take an extra step. Several people are anxious about this bill. I have no illusions, but I got the

information out. Perhaps at some point in the next millennium, some standards will be set and some ways that homeowners can protect themselves.

MS. ROMERO:

We have heard from the opposition that this problem is experienced by a small percentage of homeowners. If that is the case, the parade of horrors presented today shall not come to pass. Additionally, we heard a lot of concern over punitive damages. Punitive damages are governed by NRS 42 and require malicious, fraudulent or willful disregard. A judge or jury must find wrongdoing to award punitive damages. Senate Bill 175 does not automatically allow for punitive damages when someone loses his or her home to foreclosure.

Homeowners' associations are legal entities and as such budget for legal fees as the cost of doing business. They often have attorneys on retainer. Some states require judicial foreclosure, even for repossessing a vehicle. We are not talking about a car; we are talking about a person's home. It is more important when we are talking about specific classes of people, veterans, differently abled and elderly over the age of 62. We protect certain groups of people as a matter of course in statute. Everyone has stated they do not want to foreclose on a homeowner, but nothing is preventing negotiations. If no one wants to foreclose on a homeowner, why are we foreclosing on homeowners? Let us stop foreclosing on homeowners. That is the bottom line.

We are not talking about paying money borrowed to buy a home. We are talking about monthly assessments homeowners are obligated to pay while living in the community. With all my experience with HOAs over the decades, I still struggle to understand and comply with association rules. My goal is to do all I can to help vulnerable homeowners.

SENATOR SPEARMAN:

Senate Bill 175 ensures an extra step in the process of protecting veterans, senior citizens and differently abled Nevadans. That is all it is.

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CHAIR SCHEIBLE:

I have one document ([Exhibit E](#)) in support of S.B. 175 and six documents ([Exhibit F](#)) opposing S.B. 175. The meeting is adjourned at 3:13 p.m.

RESPECTFULLY SUBMITTED:

Jan Brase,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 175	C	20	Jeffrey Lofy	Written Testimony
S.B. 175	D	28	Kristopher Yerger	Written Testimony
S.B. 175	E	32	Senator Melanie Scheible	Letter in Support / Christine Saunders
S.B. 175	F	32	Senator Melanie Scheible	Letters in Opposition